

REMARKS

Status of the claims and claim amendments

Claims 66, 70-76, 78, 96 and 97 stand rejected.

Claims 79-82, 85, 88, 98 and 99 are objected to.

Claim 77 is allowed.

Claims 79-82, 85, 88, 98 and 99 are amended herein to the extent necessary to place them in independent form or otherwise remove their dependency on rejected base claims.

The Office Action states at page 4 that these claims (79-82, 85, 88, 98 and 99) would be allowable if amended to include all the limitations of the base claim and any intervening claims. Thus, applicant has made such amendments. It is noted, however, that claims 80 and 81 are dependent upon claim 79 and thus are not separately amended (as claim 79 was amended in independent form), and claim 99 was previously in independent form such that no amendment is made to that claim.

Reconsideration is respectfully requested with regard to claims 66, 70-76, 78, 96 and 97 for the reasons below.

Claim Rejections

The Office Action of September 10, 2004 maintains the rejection of claims 66, 70-82, 85, 88 and 96-99. The basis for the rejection is Section 103(a) obviousness with respect to each reference applied against the claims (see action at pages 2-3).

The basis for rejection is summarized at the bottom of page 3 of the action as follows:

“While said compound of the above references doesn’t anticipate the scope of the instant claims they are very closely related, being positional isomers of compounds i.e., 3-substituent in the phenyl ring vs.4-substituent in the phenyl ring. However, positional isomers are not deemed patentably distinct absent evidence of superior or unexpected properties.”

Applicant submits herewith the Declaration of Katerina Leftheris, an inventor herein and employee of assignee Bristol-Myers Squibb Company, presenting comparative data with regard to the 3-substituent in the phenyl ring vs.4-substituent in the phenyl ring. As can be seen in from this Declaration, there is evidence of superior or unexpected properties of the compounds in inhibiting the p38 enzyme when the substituent is in the 3 versus 4 position. Thus, applicant submits that

evidence has been submitted sufficient to overcome this rejection and requests that the rejection be withdrawn for these reasons together with those expressed in the Amendment filed June 16, 2004.

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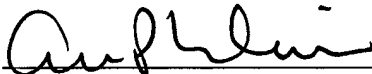
Applicant has amended four claims to place them in independent format. It is believed a fee is due in the amount of \$344 for the independent claims. Please charge this fee and any additional fee that may be due to Deposit Account No. 19-3880 in the name of Bristol-Myers Squibb Company.

SUMMARY

In view of the foregoing, it is requested that the rejections be withdrawn and the case proceed to issuance. The Examiner is invited to contact the undersigned if it is believed prosecution could be expedited.

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
609-252-6996



Anastasia P. Winslow
Attorney for Applicants
Reg. No. 40,875

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